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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,319	12/15/2003	Brandt Powell Hott	2645-6255US	5451
24247	7590	07/19/2005	EXAMINER	
TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110				BAHTA, KIDEST
		ART UNIT		PAPER NUMBER
		2125		

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/736,319	HOTT, BRANDT POWELL
	<b>Examiner</b>	<b>Art Unit</b>
	Kidest Bahta	2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-20 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
    1.  Certified copies of the priority documents have been received.  
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
    3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_.  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 11 and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Crater et al. (U. S. Patent 5,982,362).

Regarding claim 1, Crater discloses a computer implement method for monitoring, controlling and managing the daily operations and activities of an oilfield and its wells by way of the internet, comprising: monitoring production variables of the oilfield and its wells (column 1, lines 7-10); collecting data corresponding to the variables of the oilfield and its wells a (column 2, lines 65) and controlling production variables of the oilfield and its wells (column 2, lines 63-65).

Regarding claim 2, Crater discloses a client computer having at least a CPU (12), a display (50) and an input device (20), and a server computer implementing the computer implemented method, comprising: establishing a connection between a client computer and a server computer having the computer implemented method operating on the server (column 4, lines 26-42); authenticating access to the computer implemented method (column 4, lines 18-24), providing the client computer access to a polling process (column 5, lines 27-30), a control process (35), a reporting process

(column 3, lines 15-24), and controlling field equipment of at least one oilfield well (column 6, lines 50-54).

Regarding claim 3, Crater discloses a connection established between the client computer and the server computer is a connection by way of an Internet (column 5, lines 36-52).

Regarding claim 10, Crater discloses the client computer access to reporting process comprise providing the client computer access to historical data for each well monitored and controlled by the computer-implemented method (column 3, lines 11-24).

Regarding claim 11, Crater discloses displaying report criteria entry locations on the client computer for entry of desired report parameters (column 3, lines 56-62), retrieving the report parameters from the client computer (column 5, lines 26-38), creating a report with data within the report parameters and displaying the report on the client computer (column 5, lines 33-38).

Regarding claims 16-20, Crater discloses a system for controlling field equipment using the Internet, comprising: accessing an Internet domain address associated with a computer from an Internet browser device, wherein the computer is part of a control system and monitoring system (Fig. 1); activating the control system (column 2, lines 21-28); issuing control commands through the Internet control device to the control system running on the computer (Fig. 3); controlling field equipment, wherein the control system issues control commands to at least one piece of field equipment in accordance with the control commands (column 14, lines 58-65); displaying the real-time data on the Internet browser device (column 6, lines 25-30). In addition, Crater discloses

retrieves data from at least one field equipment measurement device based on the query, the at least one field equipment measurement device in communication with the computer (column 3, lines 6-24), executing a control command using the Internet browser device, wherein the execution of the control command prompts the computer to control at least one piece of field equipment (column 6, lines 50-54) displaying the data retrieved as a result of the query (column 5, lines 33-39).

3. Claims 13-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Nichols et al. (U. S. Patent 6,138,150).

Regarding claims 13-15, Nichols discloses a system for controlling production process equipment whereby a client accesses control of the production process equipment using the Internet, comprising: accessing a dedicated Internet port associated with a computer having a control system (Fig. 2, element 8); wherein the dedicated Internet port is assigned an Internet domain address (Fig. 5); activating the control system, the control system being activated by the Internet system prompts a client for log-on information (Fig. 3); retrieving the log-on information from the client and validating the log-on information, wherein the control system queries a client information database for validating log-on information based on the log-on information from the client (claim 1); accessing the Internet browser device, the control system connecting to the Internet browser device using an Internet port in communication with the computer (Fig. 2); displaying a menu of option on the Internet browser device, wherein the computer controls the menu of options (Fig. 8); selecting at least one of the option display on the Internet browser device (Fig. 9 - Fig. 16); the Internet browser device is

selected from group consisting of a computer, a phone, a personal data assistant, a portable Internet browser, and a television (22); the control system includes a front program component a main program component (Fig. 9).

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,665,568. Although the conflicting claims are not identical, they are not patentably distinct from each other because the organization elements in the claims and their function are merely obvious variations of each other. It would have been obvious to one of ordinary skill in the art at the time the invention was made to rewriting the claims in different combination. Please note that in the instant application of claims 1-2 and 4 is covered in claim 1 of the patent, instant application of claims 1-2 and 5 is covered in

claim 5 of the patent and instant application of claim 1-2 and 12 is covered in claim 14 of the patent.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed Kidest Bahta whose telephone number is 571-272-3737. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application information Retrieval IPAIRI system. Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAG system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kidest Bahta

July 16, 2005